

RENDERED: SEPTEMBER 26, 2025; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2024-CA-1257-ME

A.N.M.

APPELLANT

v. APPEAL FROM HENDERSON FAMILY COURT  
HONORABLE DAVID CURLIN, JUDGE  
ACTION NO. 20-J-00092-002

L.E.A., JR.; A.S.A.; AND E.E.A., A  
CHILD

APPELLEES

OPINION AND ORDER  
DISMISSING

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BEFORE: CALDWELL, LAMBERT, AND MOYNAHAN, JUDGES.

MOYNAHAN, JUDGE: Appellant, A.N.M. (“Sister”), appeals from the September 19, 2024, order of the Henderson Family Court dismissing a dependency, neglect, and abuse (“DNA”) petition she filed regarding her sibling, E.E.A. (“Child”). After careful review of the record and the relevant law, we hereby DISMISS this appeal due to Sister’s lack of standing.

## I. BACKGROUND

This family has a substantial history with the court system, having had previous proceedings in civil custody court, DNA court, domestic violence court, and on appeal with this Court.<sup>1</sup> L.E.A., Jr. (“Father”) and A.S.A. (“Mother”) divorced in 2013 and had two children born to their marriage – Sister and Child. Sister is now a legal adult, and Child is still a minor.

In August 2024, Sister filed a DNA petition detailing the parties’ extensive history with the courts, noting previous abuse allegations, and claiming that Father recently abandoned Child in early 2024, when he allegedly packed up Child’s belongings and told Child to go stay with Mother. After reviewing Sister’s petition, the family court set the matter for a temporary removal hearing but did not enter a concurrent emergency custody order. Sister, Mother, Father and his counsel, Child’s guardian *ad litem* (“GAL”), and the Henderson County Attorney were all present at the temporary removal hearing. The county attorney called Sister as the first witness. Sister explained that she filed the DNA petition in response to Father’s motion for contempt against Mother in the parents’ civil custody case – Sister stated she thought that case was not being resolved in a timely fashion. Sister also testified that she did not live with either Mother or

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<sup>1</sup> This appeal stems from a DNA proceeding and is confidential under our rules, so we shall not specifically cite to the other matters as they are cases of public record.

Child. Important to this matter, Sister did not request custody of Child, nor has she ever acted in a parental capacity. Sister has never exercised custodial care or supervision of Child.

Mother testified next. During her testimony, the county attorney stated that Sister did not want assistance in prosecuting the action. The family court reasoned that Sister was allowed to participate since she had filed the DNA petition but took issue to the extent of her participation. Noting the uncertain position, the family court still allowed Sister to question Mother. After a few minutes, Father's counsel objected, arguing that the Commonwealth, *vis-à-vis* the county attorney, had the burden of proof during a temporary removal hearing, not Sister. The family court sustained the objection and instructed the county attorney to resume questioning Mother. Mother's testimony was substantially the same as Sister's. When Mother attempted to relate a 2022 incident of abuse perpetrated by Father, the family court stopped her, stating that it was already aware of those issues and that they had been satisfactorily addressed in previous proceedings.

The final witness was a Cabinet for Health and Family Services ("Cabinet") employee who had been assigned to the family in the past, including at the time of the 2022 incident. She stated that, outside of a report of abuse made in September 2023, which the Cabinet found to be unsubstantiated, there had been no other reports regarding the family for the preceding year.

Father's counsel then moved for dismissal, stating that there was insufficient evidence to prove that neglect or abuse occurred by a preponderance of the evidence, especially given that Sister admitted that her primary motivation in filing this DNA petition was to strategically allow Mother to "get out in front" of the civil custody action. The county attorney and the GAL agreed with dismissal. Sister disagreed, restating her belief that Father had abandoned Child. The family court dismissed the DNA petition, noting that the allegations were better suited to be addressed in the parents' ongoing civil custody case. This appeal followed.

## II. ANALYSIS

As a threshold matter, we must address whether Sister has proper standing to have brought this appeal. *See Davis v. Dep't of Revenue of Fin. & Admin. Cabinet*, 197 S.W.3d 557, 565 (Ky. App. 2006) (citations omitted), *reversed on other grounds by Dep't of Revenue of Kentucky v. Davis*, 553 U.S. 328 (2008). Standing is a pure question of law which this Court reviews *de novo*. *Link v. Link*, 704 S.W.3d 698, 703 (Ky. App. 2024). Standing is a legal term generally defined as "[a] party's right to make a legal claim or seek judicial enforcement of a duty or right" or in other words the "require[ment] that a party have a judicially recognizable interest in the subject matter of the suit." *Harrison v. Leach*, 323 S.W.3d 702, 705 (Ky. 2010) (internal quotation marks and citations omitted). Our jurisprudence contemplates multiple forms of standing, including statutory and

constitutional standing. *Commonwealth, Cabinet for Health & Fam. Servs., Dep't for Medicaid Servs. v. Sexton by & through Appalachian Reg'l Healthcare, Inc.*, 566 S.W.3d 185, 191 (Ky. 2018). Statutory standing is expressly conferred to an individual by statute and may be waived if not adequately asserted. *Id.*

Constitutional standing, conversely, cannot be waived and is a doctrine of justiciability which holds that a person may only bring suit if he or she “has a substantial interest in the subject matter of the litigation and [] will be aggrieved by an adverse ruling by the [C]ourt.” *F.E. v. E.B.*, 641 S.W.3d 700, 706 (Ky. App. 2022) (citing *Riehle v. Riehle*, 504 S.W.3d 7, 9 (Ky. 2016)); *see Sexton*, 566 S.W.3d at 196. In cases where both forms of standing are at issue, an analysis of the two is somewhat interdependent, as statutory standing is often dependent upon constitutional standing, as explained below. In this case, Father argues that Sister does not possess either form of standing.<sup>2</sup> We agree.

Kentucky Revised Statutes (“KRS”) 620.155 states: “[a]ny *interested party* aggrieved by a proceeding under KRS 610.010(2)(d) including the *parent, child, guardian ad litem, the cabinet, and the county attorney* may appeal from the juvenile court to the Circuit Court as a matter of right in the manner provided in

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<sup>2</sup> Father has not waived any argument regarding Sister’s statutory standing, having raised the issue both below and on appeal in his motion to dismiss filed on January 15, 2025. This Court denied that motion on February 27, 2025, but noted that it “retains authority to review decisions on motion panel that do not finally dispose of the case when the case is considered by a full-judge panel to which it is assigned.” *Commonwealth Bank & Tr. Co. v. Young*, 361 S.W.3d 344, 350 (Ky. App. 2012).

the Kentucky Rules of Civil Procedure.” (Emphasis added.) Thus, whether Sister has statutory standing to bring an appeal is determined by whether she qualifies as an “interested party.”

Initially, we recognize that Sister had the authority to file the DNA petition below as an “interested person.” *See* KRS 620.070(1). While there is no statutory definition for what constitutes an “interested person,” this Court has generally held one to be “parents, guardians, family members, or [the Cabinet.]” *See, e.g., T.C. v. M.E.*, 603 S.W.3d 663, 679 (Ky. App. 2020). However, being an “interested person” does not automatically confer party status.

This Court’s recent decision in *G.M.A. v. Commonwealth*, 689 S.W.3d 142 (Ky. App. 2024) is controlling. In *G.M.A.*, grandparents filed a DNA petition on behalf of their grandchild after parents left the child in grandparents’ custody. *Id.* at 144. The family court determined the grandparents were not afforded party status and prohibited them from any substantial participation. *Id.* at 144-45. Grandparents later filed motions to intervene and to be considered *de facto* custodians.<sup>3</sup> *Id.* at 145-46. The family court denied these motions and eventually dismissed the DNA case, over grandparents’ objection. *Id.* This Court reversed,

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<sup>3</sup> KRS 403.270(1)(a) defines a “de facto custodian” as “a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who within the last two (2) years has resided with the person for an aggregate period of six (6) months or more . . . .”

holding that “[i]n light of the clear language of the statute and the practice of this case, we conclude that, when filed by an ‘interested person’ *with proper standing*, the petitioner in a DNA action is accorded the status of party-plaintiff.” *Id.* at 146-47 (emphasis added). Proper standing in this instance means constitutional standing.

In *G.M.A.*, grandparents had proper standing, not because they filed the DNA petition, but more importantly, because they had custody of the subject child and continually asserted their custodial rights. Grandparents’ claim to custodial rights was a substantial and judicially recognizable interest, which was adversely affected by the rulings of the family court. *See F.E.*, 641 S.W.3d at 706. By virtue of having custody, grandparents also had the statutorily afforded rights to receive notice and participate. *G.M.A.*, 689 S.W.3d at 147 (citing KRS 620.100(5)) (“As ‘relatives providing care for the child,’ Grandparents clearly had a right to receive notice and to participate in hearings.”).

Here, while Sister is an “interested person” who had the authority to file a DNA petition, she has no custodial rights or any other rights in jeopardy which could be construed as a substantial or judicially recognizable interest concerning Child. Indeed, Sister’s own primary stated reason for filing the DNA petition was to bolster Mother’s legal position and hasten action in the parents’ ongoing civil custody action – not for Sister herself to maintain or assume custody

of Child. Additionally, Sister's participation is not necessary to protect the Child's interests. Once Sister filed the DNA petition, the protection of Child's best interests became the purview of the family court, Child's GAL, and the Commonwealth as represented by the county attorney. *See* KRS 620.080(2); KRS 620.010. As a matter of law, then, Sister did not have constitutional standing and was not a party below. Because Sister was not a party, she does not have statutory standing to file this appeal. KRS 620.155. Therefore, we must dismiss.

**III. CONCLUSION**

Accordingly, the Court ORDERS that the above-styled appeal is hereby DISMISSED.

ALL CONCUR.

ENTERED: 09/26/2025



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JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE L.E.A., Jr.:

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